



City of Marietta Meeting Minutes CITY COUNCIL

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

William B. Dunaway, Mayor
Annette Paige Lewis, Ward 1
Griffin "Grif" L. Chalfant, Jr., Ward 2
Holly Marie Walquist, Ward 3
Irvan A. "Van" Pearlberg, Ward 4
Rev. Anthony C. Coleman, Ward 5
James W. King, Ward 6
Philip M. Goldstein, Ward 7

Wednesday, March 11, 2009

7:00 PM

Council Chamber

Presiding: William B. Dunaway

Present: Philip M. Goldstein, Jim King, Rev. Anthony Coleman, Holly Walquist, Grif Chalfant, Annette Lewis and Van Pearlberg

Also Present:

William F. Bruton, City Manager

Douglas R. Haynie, City Attorney

Stephanie Guy, City Clerk

CALL TO ORDER:

Mayor William B. Dunaway called the meeting to order at 7:09 p.m.

INVOCATION:

Council member Holly Walquist introduced Reverend Craig Harwood from Gracepointe Church, who gave the invocation.

PLEDGE OF ALLEGIANCE:

Mayor Dunaway asked everyone to rise for the pledge of allegiance.

PRESENTATIONS:

20090199 Distinguished Service Award - James A. (Micky) Blackwell

Distinguished Service Award presented to James A. (Micky) Blackwell for his dedication and service on the Marietta Redevelopment Corporation.

This matter was Presented.

PROCLAMATIONS:

20090174 Sexual Assault Awareness Month

Proclamation presented to Ms. Holly Comer, CEO and Executive Director for YWCA of NW Georgia, declaring April 2009 as Sexual Assault Month.

This matter was Tabled.

ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:**CONSENT AGENDA:**

Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

Mayor Dunaway briefly explained the consent agenda process. The following amendments were made to the consent agenda:

-under Proclamations: Agenda item 20090174 was removed from the agenda and delayed until the April Council meeting.

-under Other Business: Agenda item 20090218 was added to the consent agenda.

A motion was made by Council member Goldstein, seconded by Council member King, to suspend the rules of order to add an agenda item to the consent agenda regarding property acquisition. The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved

(See agenda item 20090246)

A motion was made by Council member Walquist, seconded by Council member Coleman, to approve the consent agenda as modified. The motion unanimously carried by the following vote:

Vote: 7 - 0 - 0

Approved

with the following exceptions:

-Council member Coleman and Goldstein opposed to agenda item 20091440.

-Council members Lewis, Chalfant and Pearlberg opposed to agenda item 20090224.

-Council member Goldstein opposed to agenda item 20090115 of the BLW Actions dated March 9, 2009.

MINUTES:

- * 20090200 Regular Meeting - February 11, 2009**
Review and approval of the February 11, 2009 regular meeting minutes.
This Matter was Approved on the Consent Agenda.
Vote: 7 - 0 - 0 **Approved**
- * 20090201 Special Meeting - February 25, 2009**
Review and approval of the February 25, 2009 special meeting minutes.
This Matter was Approved on the Consent Agenda.
Vote: 7 - 0 - 0 **Approved**

MAYOR'S APPOINTMENTS:**CITY COUNCIL APPOINTMENTS:****ORDINANCES:**

20090003 Z2009-01 James W. Friedewald, St. Joseph Catholic Church, 589 Campbell Hill St., 555 Sugar Hill Dr., 558 St. Joseph Way, 95 Lacy St., 570 Nancy St., 574 Nancy St. and 543 Sugar Hill Drive

Ord 7297 [Z2009-01 [REZONING AND SPECIAL LAND USE PERMIT] ST. JOSEPH CATHOLIC CHURCH request rezoning and special land use permit for property located in Land Lot 10860, 16th District, Parcels 0010, 0460, 0370, 0220, 0230, 0240 and 0450, 2nd Section, Marietta, Cobb County, Georgia and being known as 589 Campbell Hill Street, 555 Sugar Hill Drive, 558 St. Joseph Way, 95 Lacy Street, 570 Nancy Street, 574 Nancy Street and 543 Sugar Hill Drive from R-4 (Single Family Residential 4 units/acre) and OI (Office Institutional) to R-4 (Single Family Residential 4 units/acre). Ward 4.

Mayor Dunaway opened the public hearing. City Attorney Douglas Haynie explained the rules of order and swore in those wishing to speak.

James Friedewald, representing St. Joseph Catholic Church, requested rezoning and approval of a Special Land Use Permit for property located at 589 Campbell Hill Street, 555 Sugar Hill Drive, 558 St. Joseph Way, 95 Lacy Street, 570 Nancy Street, 574 Nancy Street and 543 Sugar Hill Drive from R-4 (Single Family Residential 4 units/acre) and OI (Office Institutional) to R-4 (Single Family Residential 4 units/acre), with stipulations and variances. Mr. Friedewald read for the record the stipulations and variances being requested.

Discussion was held.

Mayor Dunaway closed the public hearing.

Motion to approve the rezoning and Special Land Use Permit, with the plat signed by the applicant and dated March 11, 2009 incorporated as part of the zoning, along with following stipulations:

- 1) Any exterior property changes that include the addition of occupiable space must be submitted back to the Planning Commission and City Council for site plan review which would include any buffer requirements.*
- 2) The Church will install a fence and place shrubs as per the attached plat. The fence will be the same as the fence that surrounds the school playground. A controlled non-passenger vehicle gate may be installed so as to allow access from the Church property to the house for maintenance purposes.*
- 3) After two (2) years the fence shall be extended along Sugar Hill to the south property line of the house.*
- 4) For two (2) years the Church will be able to access the Sugar Hill Drive house by using the two driveways for the purpose of handicap visitors and delivery of supplies. Otherwise access to the house will be from the Church property. There will be no*

parking in the street allowed for people visiting the Sugar Hill House. There will be no access to the Church property through the house.

The following variances are granted:

- 1) Variance to allow a fence exceeding 4 feet in height and chain link in composition along St. Joseph Way, Nancy Street, and Lacy Street.*
- 2) Variance to reduce the required 75 foot setback to 15 feet for property located at 543 Sugar Hill Drive.*
- 3) Variance to reduce required parking for a place of assembly and an elementary school from 252 to 211.*
- 4) Variance to allow more than 12 parking spaces in a row without a planter island for existing paved areas only.*
- 5) Variance to allow continued use of the curb cuts on Sugar Hill Drive and St. Joseph Way, both residential streets.*
- 6) Variance to allow use of an unpaved parking lot for a period of two (2) years.*

The motion was made by Council member Pearlberg, seconded by Council member Chalfant, that this matter be Approved as Stipulated. The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved as Stipulated

20090100

Z2009-03 John Hesmer 341 Lawrence Street

Ord 7298

Z2009-03 [REZONING] JOHN R. HESMER request rezoning for property located in Land Lot 1216, 16th District, Parcel 26, 2nd Section, Marietta, Cobb County, Georgia and being known as 341 Lawrence Street from R-4 (Single Family Residential 4 units/acre) to OIT (Office Institution Transitional). Ward 5.

Mayor Dunaway opened the public hearing.

John Hesmer requested rezoning for property located at 341 Lawrence Street from R-4 (Single Family Residential 4 units/acre) to OIT (Office Institution Transitional) for the purpose of operating a professional office. Mr. Hesmer also requested a variance to reduce the required driveway width from 20 feet to 12 feet.

Discussion was held.

Motion to approve the rezoning request and granting the variance to reduce the required driveway width from 20 feet to 12 feet.

The motion was made by Council member Coleman, seconded by Council member Goldstein, that this matter be Approved. The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved

20081281

CA2009-01 Proposal to Amend the Comprehensive Development Code

Ord 7295

CA2009-01[CODE AMENDMENT] Proposal to amend the Comprehensive Development Code of the City of Marietta relating to Division 714, paragraph

714.04(F) [General Advertising and Off-Premise Signs] and Division 724.02 [Definitions] of the Zoning Ordinance.

Mayor Dunaway opened the public hearing.

Scott Peters with Clear Channel spoke regarding the proposed amendments offering suggestions for clarification purposes.

Kathleen Scott, who resides at 329 Atlanta Street, expressed concern regarding the proposed amendments.

Mayor Dunaway closed the public hearing.

In depth discussion was held regarding the proposed amendments to the Comprehensive Development Code of the City of Marietta relating to Division 714, paragraph 714.04(F) [General Advertising and Off-Premise Signs] and Division 724.02 [Definitions] of the Zoning Ordinance.

The following additional amendments were also made to Section 714.04 F:

-Paragraph 12(a3) was amended to read, "This ordinance is adopted based upon concerns for the distractions that digital general advertising or off-premise advertising signs could cause upon the roadway."

-Paragraph 12(b1) was amended to read, "An existing general advertising sign panel or off-premise sign panel may be replaced with a digital panel if no less than four (4) existing general advertising sign panels or off-premise sign panels are removed in their entirety. An existing panel that is to be retrofitted with a digital panel(s) shall not count toward the aforementioned panel to be removed."

-Paragraph 12(b4) was amended to read, "The designated sign must not be greater than 672 square feet nor be located within 500 feet of a bona fide residence, nor be more than 70 feet in height as measured at road grade... "

-Paragraph 13(d) was amended to read, "...certification of the brightness showing compliance ..."

- Paragraph 13(g) was amended to read, "Amber Alerts or alerts concerning emergency management information.

-The ordinance should also state that the effective date shall be April 13, 2009.

A motion was made by Council member Pearlberg, seconded by Council member Walquist, to approve the ordinance as revised.

A substitute motion was made by Council member King, seconded by Council member Lewis, to approve the ordinance as revised with two additional amendments to Section 714.04 F:

-Paragraph 12(b4) was amended to read, "...road grade and be in full compliance with Marietta Code Sections 714.02, 714.06, 714.07 and 714.09."

-Paragraph 13(i) was amended to read, "If the staff of the City of Marietta finds that the digital general advertising sign or off-premise sign exceeds the

brightness specified in paragraph C above, the owner of the sign, within twenty four (24) hours of a request by the staff of the City of Marietta, shall reduce the intensity of the sign be in compliance with this ordinance and provide said certification."

The motion was made by Council member King, seconded by Council member Chalfant, that this matter be Approved as Amended. The motion carried by the following vote:

Vote: 4 - 2 - 1

Approved as Amended

Vote Against: Philip M. Goldstein and Annette Lewis

Abstain: Rev. Anthony Coleman

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

CITY MANAGER'S REPORT:

MAYOR'S REPORT:

COMMITTEE REPORTS:

1. Economic/Community Development: Grif Chalfant, Chairperson

- * **20090175 HCV Administrative Plan**
Res 1455 Approval of a Resolution approving the attached Addendum to the City of Marietta's HCV Administrative Plan.

This Matter was Discussed on the Consent Agenda.

Vote: 7 - 0 - 0

Discussed

2. Finance/Investment: Annette Lewis, Chairperson

- * **20090153 Marietta Fire Donation**
Ord 7296 Ordinance appropriating \$2000 from Red Train, Inc. for fire safety programs.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

- * **20090180 City of Marietta Investment Policies**
Motion to approve changing the City investment policy to allow investing in CDARS.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

20090192 Transfer of funds for drafting Historic Guidelines

Motion to authorize and direct that an amount not to exceed Twenty Thousand

Dollars (\$20,000) be transferred from the currently existing funds of the Historic Preservation Commission to the Downtown Marietta Development Authority for the benefit of the Historic Board of Review for the sole purpose of drafting the historic guidelines for the downtown Marietta area.

As disclosed in the annual disclosure filed pursuant to the City of Marietta's Ethics Ordinance, Councilman Goldstein owns properties directly or indirectly through various entities as well as family members that are within the Marietta Historic District. This item is proposed funding for guidelines for the entire district.

A motion was made by Council member Pearlberg, seconded by Council member King, to this matter as printed on the agenda.

Discussion was held.

A substitute motion was made by Council member Goldstein, seconded by Council member, to authorize and direct that an amount not to exceed Twenty Thousand Dollars (\$20,000) be transferred from the currently existing funds of the Historic Preservation Commission to the Downtown Marietta Development Authority for the benefit of the Historic Board of Review for the sole purpose of drafting the historic guidelines for the downtown Marietta area, and further that the condition (requirement of a poll and consent of the 60% of the property owners) for obtaining the funds for the Design Guidelines for potential Historic Districts by the Historic Preservation Commission for the proposed districts as set forth in the budget is also removed. The motion carried by the following vote:

Vote: 4 - 3 - 0

Approved

Voting Against: Holly Walquist, Jim King and Van Pearlberg

Mayor Dunaway vetoed the motion.

(The official veto of the amendment by Mayor Dunaway is on file in the City Clerk's Office.)

A motion was made by Council member Lewis to override the veto.

Mayor Dunaway, with consent of Council, granted Council member Chalfant's request to have discussion by members of the Historic Preservation Commission and others present in the audience.

Council member Lewis withdrew her motion.

Comments were made by:

-Julia Carrie Walker, who resides at 192 Normandy Drive and a member of the Historic Preservation Commission.

-Kathleen Scott, who resides at 329 Atlanta Street.

-Steve Imler, who resides at 599 Church Street.

-Becky Paden, who resides at 607 Longstreet Drive and a member of the Historic Preservation Commission.

A motion was made by Council member Lewis, seconded by Council member Coleman, to override the veto. The motion failed by the following vote:

Vote: 5 - 2 - 0

Approved

Vote Against: Van Pearlberg and Jim King

20090240 Termination of Contract

Motion to terminate and cancel contract between the City of Marietta and Georgia State University.

A motion was made by Council member King, seconded by Council member Pearlberg, to terminate and cancel contract between the City of Marietta and Georgia State University.

In depth discussion was held.

Council member King withdrew his motion and Council member Pearlberg withdrew his second.

No Action Taken.

3. Judicial/Legislative: Philip M. Goldstein, Chairperson

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20090091 Noise ordinance

Ord 7300

Approval to amend Sections 10-06-080 and 10-06-030 of the Noise Ordinance.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

4. Parks, Recreation and Tourism: Holly Walquist, Chairperson

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20081440 Kennesaw to Chattahoochee Multiuse Trail

Motion to approve the following route for a portion of Kennesaw Mountain to Chattahoochee Trail:

Beginning at the end of an existing trail segment at the intersection of Tower Road and Roselane Street;

thence crossing Roselane Street at an existing 2-way stop;

thence southward along the eastern side of Roselane Street;

thence crossing Roselane Street at a new all way stop at Radium Street;

thence southward along the western side of Roselane Street;

thence eastward along the southern side of North Sessions Street;

thence crossing North Sessions Street at a new all way stop at Saint Joseph's way;

thence eastward along the northern side of North Sessions Street

thence crossing North Sessions Street at an existing all way stop at Campbell Hill Street;
thence southward along the western side of Campbell Hill Street;
thence eastward along the southern side of Brumby Street;
thence southward along the property line common to 111 North Marietta Parkway, 297 Church Street, and 289 Church Street;
thence eastward along the property line common to 289 Church Street and 281 Church Street;
thence southward along the western side of Church Street;
thence westward along the northern side of North Marietta Parkway along the previously approved route.

This Matter was Approved on the Consent Agenda.

Vote: 5 - 2 - 0

Approved

Vote Against: Philip M. Goldstein and Rev. Anthony Coleman

5. Personnel/Insurance: Van Pearlberg, Chairperson

6. Public Safety Committee: Anthony Coleman, Chairperson

7. Public Works Committee: Jim King, Chairperson

*** 20090167 Partial right-of-way acquisitions**

Motion authorizing partial right of way acquisitions and easements of the following properties:

1017 Roswell Street & 9 S. Cobb Parkway from Raymond O. Boyd in exchange for \$488,773, for the purpose of constructing the Roswell Street Improvements project from Victory Drive to Cobb Parkway.

1574 Lower Roswell Road & 1590 Roswell Road from William E. Elder, Jr. and Louise Elder Crapps in exchange for \$20,697, for the purpose of extending a turn lane along Lower Roswell Road to Roswell Road.

1294 & 1300 Roswell St from Donald G. McDougall and Sandra Walls in exchange for \$19,500, for the purpose of constructing sidewalks on Roswell Road

225 & 237 Roswell Street from Lori T. and Robert Donovan in exchange for \$4,700, for the purpose of constructing Roswell Street Streetscapes

20 N. Fairground Street donated by Smart Investments, LLC for the purpose of the Roswell Street Improvements project between Olive Street and Merritt Street.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

SCHEDULED APPEARANCES:**UNSCHEDULED APPEARANCES:**

Keith Carlisle, who resides at 29 Sessions Street, expressed concern regarding the approved route of the Kennesaw/Chattahoochee Multiuse Trail.

OTHER BUSINESS:

- * **20090205 City/BLW Consolidated Pension Plan**
Ord 7031 Ordinance revising City Code Section 4-12 regarding the Consolidated Pension Plan as recommended by the City/BLW Pension Board.
- This Matter was Discussed on the Consent Agenda.**
- Vote: 7 - 0 - 0 Discussed**
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- * **20090224 Amendment to rezoning stipulations for Lee Jaraysi 555 Commerce Avenue**
Motion to amend stipulations to Z2009-02 (REZONING) LEE JARAYSI -555 Commerce Avenue amending Section 5.1 to allow for a maximum of 45 days from the date of the amendment to remove the existing siding and amending Stipulation 1 in the adopting motion, and Section 3.8 to allow approval to modify the site plan allowing for the entry area on the left side of the building to be added provided it does not intrude into the building setback lines and otherwise conforms to the City's codes and ordinances.
- This Matter was Approved on the Consent Agenda.**
- Vote: 4 - 3 - 0 Approved**
Vote Against: 3 - Van Pearlberg, Grif Chalfant and Annette Lewis
-
- * **20090218 Property Acquisitions and Easements**
Motion authorizing partial right of way acquisitions and easements of the following properties:
- 324 N. Fairground Street from Joyce R. & W.E. Padgett, III in exchange for \$640 for the purpose of roadway improvements along Fairground Street (N. Marietta Parkway to Allgood Road).
- 324 S. Fairground Street from Frank S. Holcombe in exchange for \$5,730 for the purpose of roadway improvements along Fairground Street (N. Fairground Street to Allgood Road).
- 264 Powers Ferry Road from United Food and Gas in exchange for \$460 for the purpose of roadway improvements along Powers Ferry Road at S. Marietta Parkway.

319 Manget Street from MSJ Properties, LLC, as a donation for the purpose of roadway improvements along Manget Street @ Lakewood Drive.

334 Lakewood Drive from Lloyd M. Nelson as a donation for the purpose of roadway improvements along Manget Street @ Lakewood Drive.

319 Stokes Avenue from Billy & Shirley Ramsey as a donation, for the purpose of roadway improvements along Manget Street @ Lakewood Drive.

313 Manget Street and 454 Haley Street from Donnis W. King as a donation for the purpose of road improvements along Manget St at Lakewood Drive

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

*** 20090246 Property Acquisitions and Easements**

Temporary Easement at 191 Roswell Street from Bluegrass Realty in exchange for \$4000 for the purpose of road improvements.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

*** 20090204 BLW Actions of March 9, 2009**

Review and approval of the March 9, 2009 actions and minutes of the Marietta Board of Lights and Water Works (BLW).

Council member Goldstein opposed to BLW agenda item 20090115, Motion for approval of changes to Marietta Board of Lights and Water Policy and Procedure No. 2.2, Deposits.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

ADJOURNMENT:

The meeting was adjourned at 9:38 p.m.

Date Approved: April 15, 2009

William B. Dunaway, Mayor

Attest: _____
Stephanie Guy, City Clerk